

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONNIE PHILLIPS,

Plaintiff,

No. CIV S-02-1296 GEB JFM P

vs.

CHERYL K. PLILER, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This matter is set for jury trial before the Honorable Garland E. Burrell, Jr. on August 15, 2006. In the pretrial order filed August 26, 2005, this court granted plaintiff's request for the attendance of inmate witness Nhia Yang at trial based on the showing made in a document filed plaintiff with his pretrial statement styled "Particularized Showing to Obtain the Attendance of Witnesses." On July 17, 2006, this court issued a writ of habeas corpus ad testificandum for the attendance of plaintiff's witness, inmate Nhia Yang, at trial. On July 26, 2006, the court received a letter from inmate Yang requesting that he not be called as a witness at the trial of this matter. By order filed August 3, 2006, counsel for defendant was directed to forward a copy of inmate Yang's letter and the August 3, 2006 order to plaintiff, and the parties were directed to place a conference call to the chambers of the undersigned to advise the court of

1 their respective positions concerning whether or not the writ of habeas corpus ad testificandum to
2 inmate Nhia Yang should be vacated. The parties have complied with the provisions of the
3 August 3, 2006 order.

4 After consideration of inmate Yang's letter and the positions of the parties with
5 respect thereto, and good cause appearing, IT IS HEREBY ORDERED that:

6 1. The writ of habeas corpus ad testificandum, issued July 17, 2006, for inmate
7 Yang's attendance at trial will not be vacated.

8 2. Inmate Yang shall be brought to the trial of this matter on August 15, 2006 in
9 accordance with the provisions of the July 17, 2006 writ of habeas corpus ad testificandum.

10 3. The Clerk of the Court is directed to serve a copy of this order on Warden
11 Derral Adams, California Substance Abuse Treatment Facility, 900 Quebec Avenue, P.O. Box
12 7100, Corcoran, CA 93212; and

13 4. The Clerk of the Court is directed to serve a copy of this order on Nhia Yang,
14 inmate # P-14711, California Substance Abuse Treatment Facility, P.O. Box 5242, Corcoran, CA
15 93212.

16 DATED: August 8, 2006.

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19 UNITED STATES MAGISTRATE JUDGE
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